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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,041	12/12/2005	Frederic W Strobel	1-36863	1972
43935 7590 12/01/2008 FRASER CLEMENS MARTIN & MILLER LLC 28366 KENSINGTON LANE PERRYSBURG, OH 43551				
EXAMINER				
LEE, GILBERT Y				
ART UNIT		PAPER NUMBER		
3673				
NOTIFICATION DATE		DELIVERY MODE		
12/01/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/541,041

Applicant(s)

STROBEL ET AL.

Examiner

GILBERT Y. LEE

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11, 12, 15-18 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11, 12, 15-18 and 20-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 June 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed 9/15/08 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt (US Patent No. 3,644,946) in view of Adams (US Patent No. 6,357,065), Allen et al. (US Pub. No. 2001/0001163), and Brooke et al. (US Patent No. 6,728,985).

Regarding claim 18, the Swatt reference discloses a bariatric patient management system (Fig. 1) comprising:

a main frame (e.g. 11) having a first end (e.g. end at 12) and a second end (e.g. end at 13);

a backrest section (e.g. 22) disposed on said main frame adjacent the first end; said backrest section including at least one backrest panel (e.g. 22), and a backrest actuator (50) linked to said backrest section to selectively cause an inclination of said backrest panel (Col. 2, Line 60-Col. 3, Line 2);

a middle section (e.g. 21) disposed on said main frame adjacent said backrest section, said middle section including at least one middle panel (e.g. 21);

a leg section (e.g. 24) disposed on said main frame adjacent said middle section, said leg section including at least one leg panel (e.g. 24), and a leg actuator (80) linked to said leg section to selectively cause an inclination of said leg panel (Col. 3, Lines 16-20);

a foot section (e.g. 26) disposed on said main frame adjacent the leg section and the second end of said main frame, said foot section including at least one foot panel (e.g. 26), and a foot actuator (e.g. 93) linked to said foot section to selectively cause an inclination of said foot panel relative said frame (Col. 3, Lines 28-40); and

ground engaging wheels (17) disposed on said main frame to facilitate a transporting of the bariatric patient management system,

wherein the backrest panel, the middle panel, the leg panel, and the foot panel cooperate to form a mattress supporting surface (Figs. 2).

However, the Swatt reference fails to explicitly disclose a backrest side pull out extension slidably disposed in a side of the backrest section, a middle side pull out extension slidably disposed in a side of the middle section, a leg side pull out extension slidably disposed in a side of the leg section, and a foot side pull out extension slidably disposed in a side of the foot section, said backrest side pull out extension, said middle side pull out extension, said leg side pull out extension, and said foot side pull out extension cooperate to selectively increase a width of the mattress supporting surface, an end pull out extension, a side rail adjustably connected to the backrest side pull out extension, and an ingress/egress bar adjustably connected to the foot side pull out extension.

The Adams reference, a patient support, discloses a backrest side pull out extension (e.g. 76) slidably disposed in a side of the backrest section, a middle side pull out extension (e.g. 77) slidably disposed in a side of the middle section, a leg side pull out extension (e.g. 78) slidably disposed in a side of the leg section, and a foot side pull out extension (e.g. 79) slidably disposed in a side of the foot section, said backrest side pull out extension, said middle side pull out extension, said leg side pull out extension, and said foot side pull out extension cooperate to selectively increase a width of the mattress supporting surface (Figs. 6 and 7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide pull out extensions for the backrest, middle, leg, and foot sections to the Swatt reference in view of the teachings Adams in order to support a relatively wide mattress that is particularly suitable for use by obese patients (Adams, Col. 1, Lines 10-13).

The Allen et al. reference, a hospital bed, discloses the addition of an extensible end pull out extension (Para. [0038]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide an extensible end pull out extension to the modified Swatt reference in view of the teachings of the Allen et al. reference in order to allow the bed to fit into smaller elevators and to save space during storage of the bed (Allen et al., Para. [0036]).

The Brook et al. reference, a hospital bed, discloses the addition of side rails (150,152) adjustably connected to the backrest side pull out extension (note that the

side rails 150,152 move with the back rest and would be attached to the side pull out extension as taught by Adams), said side rail having a plurality of positions (e.g. Fig. 2) and an ingress/egress bar (122,124) adjustably connected to the foot side pullout extension (note that the side rails 150,152 move with the foot rest and would be attached to the side pull out extension as taught by Adams), said ingress/egress bar pivotably mounted to the foot side pullout extension (e.g. Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide side rails and ingress/egress bars to the Swatt reference in view of the teachings of the Brook et al. reference in order to assist individuals during ingress onto and egress from a patient support surface (Brook et al., Col. 1, Lines 29-32).

Regarding claim 15, the Swatt reference, as modified in claim 18, discloses the actuators being at least one of a push actuator and a pull actuator (Swatt, Figs. 2-3).

Regarding claim 16, the Adams reference discloses the actuators being electric actuators (Swatt, Col. 2, Lines 72-75).

Regarding claim 17, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However the modified Swatt reference fails to explicitly disclose the actuators being hydraulic actuators.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide hydraulic actuators to the modified Swatt reference as a mechanical expedience and in order to provide a smooth lifting action.

3. Claims 11, 12, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams, Allen et al. and Brooke et al., as applied to claims 15-18 above, and further in view of Spath (US Patent No. 4,847,930).

Regarding claim 11, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose a trapeze base frame having a two-point mounting configuration.

The Spath reference, a hospital bed, discloses a trapeze base frame (e.g. 34) having a two-point mounting configuration (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a trapeze base frame having a two-point mounting configuration to the modified Swatt reference in view of the Spath reference in order to allow a patient to raise themselves (Spath, Col. 1, Lines 6-22).

Regarding claim 12, the modified Swatt reference, as modified in claim 11, discloses the trapeze base frame including a pivotally mounted trapeze boom (Spath, e.g. 29).

Regarding claim 21, the modified Swatt reference, as modified in claim 11, discloses the trapeze base frame including a pair of fixed outwardly extending arms (31 and 33, e.g. fixed to the bed).

4. Claims 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams, Allen et al. and Brooke et al. as applied to claims 15-18 above, and further in view of Bartlett et al. (US Pub. No. 2002/013905).

Regarding claim 20, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose at least one load cell mounted between said wheels and said main frame.

The Bartlett et al. reference, a hospital bed, discloses at least one load cell (422) mounted between said wheels and said main frame (Fig. 31).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide at least one load cell mounted between said wheels and said main frame to the modified Swatt reference in view of the teachings of the Bartlett et al. reference in order to monitor a patient's weight.

Regarding claim 24, the Swatt reference, as modified in claim 20, discloses the main frame including a hollow member (Adams, e.g. hollow members of 20 and 22 engaging casters 18) supporting the load cell (Adams, Fig. 1). Note that the Bartlett et al. reference discloses the load cells being mounted on the casters (Para. [0167]) and would therefore go in the hollow members 20 and 22 of the Adams reference.

5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams, Allen et al., Brooke et al., and Spath as applied to claims 11, 12, 15-18, and 21 above, and further in view of Johnston et al. (US Patent No. 4,409,695).

Regarding claim 22, the modified Swatt reference discloses the invention substantially as claimed in claim 12, including the trapeze base frame including a plurality of apertures (Spath, e.g. apertures holding pins 23) formed therein, a locking pin selectively cooperating with one of the plurality of apertures to lock the trapeze boom in a desired position (Spath, Col. 3, Lines 1-14).

However, the modified Swatt reference fails to explicitly disclose the locking pin being spring loaded.

The Johnston et al. reference, an adjustable bed for morbidly obese patients, discloses using spring loaded engagement pins (87).

It would have been obvious to one of ordinary skill in the art at the time of the invention to replace the locking pins of the modified Swatt reference with spring loaded engagement pins in view of the teachings of the Johnston et al. reference in order to ensure easy adjustment and to ensure that the pins do not get lost during adjustment.

6. Claim 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams, Allen et al., and Brooke et al. as applied to claims 15-18 above, and further in view of Alexander (US Patent No. 6,173,461).

Regarding claim 23, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose a motor to cause rotation of at least one of the wheels.

The Alexander reference, a support unit, discloses a motor coupled to at least one of the wheels (Claim 4).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a motor to the modified Swatt reference in view of the teachings of the Alexander reference in order to provide propulsion of the support unit (Alexander, Claim 4).

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Swatt in view of Adams, Allen et al., Brooke et al., Spath and Bartlett et al.

Regarding claim 25, the modified Swatt reference discloses the invention substantially as claimed in claim 18.

However, the modified Swatt reference fails to explicitly disclose a trapeze base frame having a two-point mounting configuration disposed on said main frame adjacent the first end and at least one load cell mounted between said wheels and said main frame.

The Spath reference, a hospital bed, discloses a trapeze base frame (e.g. 34) having a two-point mounting configuration (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a trapeze base frame having a two-point mounting configuration to the modified Swatt reference in view of the Spath reference in order to allow a patient to raise themselves (Spath, Col. 1, Lines 6-22).

The Bartlett et al. reference, a hospital bed, discloses at least one load cell (422) mounted between said wheels and said main frame (Fig. 31), said at least one load cell adapted to provide a weight of the bariatric patient management system (Para. [0166]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide at least one load cell mounted between said wheels and said main frame, said at least one load cell adapted to provide a weight of the bariatric patient management system to the modified Swatt reference in view of the teachings of the Bartlett et al. reference in order to monitor a patient's weight.

Response to Arguments

8. Applicant's arguments with respect to claims 18 and 25 have been considered but are moot in view of the new ground(s) of rejection.
9. Applicant's arguments filed 9/15/08 have been fully considered but they are not persuasive.

With regards to the applicant's argument of the Allen et al. reference, the argument is not persuasive because the claims do not limit where on the system the extensible end pullout extension is located. Applicant further argues that the Allen et al. reference does not disclose that the "system" is lengthened or shortened. This argument is not persuasive because the deck, being part of the "system", lengthens and shortens.

With regards to the applicant's argument of claims 11, 12, and 21, the argument is not persuasive because the trapeze boom of the Spath reference is only connected at two points (e.g. at points which 31 and 33 are connected to 27); therefore, meeting the limitation of a "two-point mounting configuration". The applicant further argues that Spath fails to disclose a "pair of fixed outwardly extending arms". This argument is not persuasive because arms 31 and 33 clearly are fixed to 27 and extend outwardly from 27.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GILBERT Y. LEE whose telephone number is (571)272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patricia L Engle/
Supervisory Patent Examiner, Art Unit 3673

/G. Y. L./
Examiner, Art Unit 3673